

§ 776.1

AUTHORITY: 10 U.S.C. 826, 827; Manual for Courts-Martial, United States, 1984; Secretary of the Navy Instruction 5430.27A, Responsibility of the Judge Advocate General for Supervision of Certain Legal Services; U.S. Navy Regulations, 1990.

SOURCE: 59 FR 45214, Sept. 1, 1994, unless otherwise noted.

Subpart A—General, Preamble and Premises

§ 776.1 Purpose.

In furtherance of the authority citations [which, if not found in local libraries, are available from the Office of the Judge Advocate General (Administrative Law Division), 200 Stovall Street, Alexandria, VA 22332-2400], which require the Judge Advocate General (JAG) to supervise the performance of legal services under his cognizance throughout the Department of the Navy (DON), this part is promulgated—

(a) To establish Rules of Professional Conduct for DON civilian and military attorneys practicing under the supervision of JAG;

(b) To promulgate procedures for receiving, processing, and taking action on complaints of professional misconduct made against attorneys practicing under the supervision of JAG, or certified by JAG under articles 26(b) or 27(b) of the Uniform Code of Military Justice (UCMJ) (10 U.S.C. 826(b), 827(b)); and

(c) To prescribe limitations on, and procedures for, processing requests to engage in the part-time outside practice of law by DON judge advocates or civilian attorneys under the supervision of JAG.

§ 776.2 Applicability.

(a) This part defines the professional ethical obligations of, and applies to:

(1) Attorneys:

(i) Certified by JAG under the provisions of article 27(b), UCMJ, 10 U.S.C. 827(b);

(ii) Designated by JAG as legal assistance attorneys;

(iii) Who practice within DON and who are certified under article 27(b), UCMJ, 10 U.S.C. 827(b), or who are designated as a legal assistance attorney by the Judge Advocate General/Chief

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Counsel of another armed force, or both; and

(2) Who are not certified in accordance with article 27(b), UCMJ, 10 U.S.C. 827(b), or designated as a legal assistance attorney, but who practice under the supervision of JAG.

(3) Military trial and appellate judges who practice or perform legal services under the cognizance of JAG.

(4) Reserve judge advocates of the Navy or Marine Corps on active duty, extended active duty, active duty for training, inactive duty for training, or when performing duties subject to the supervision of JAG. Subpart D of this part, however, does not apply to Reserve judge advocates unless they serve on active duty for more than 30 consecutive days.

(5) DON civilian counsel practicing under the supervision of JAG.

(6) Civilian counsel representing individual members of the naval service in any matter for which JAG is charged with supervising the provision of legal services including, but not limited to, courts-martial, administrative boards, and disability evaluation proceedings. Subpart D of this part, however, does not apply to such counsel.

(b) Although subpart B of this part does not apply to nonlawyers, the rules in that subpart do define the type of ethical conduct that the public and the military community have a right to expect not only of lawyers but also of their nonlawyer employees and associates in all matters pertaining to professional conduct. Accordingly, subpart B shall serve as models of ethical conduct for the following personnel when involved with the delivery of legal services under the purview of JAG—

(1) Navy legalmen and Marine Corps legal administrative officers and legal service specialists;

(2) Limited duty officers (law);

(3) Legal interns; and

(4) Civilian support personnel including paralegals, legal secretaries, legal technicians, secretaries, court-reporters, and others holding similar positions. Attorneys who supervise nonlawyer employees are responsible for their ethical conduct to the extent provided for in § 776.54.